

REMARKS

Claims 1-5, 7-11, 14-37 and 39-50 are pending in the application. Claims 1, 7, and 14 are amended. Claim 50 is added.

MISSING PTO-1449

As a preliminary matter, the Applicants note that an Information Disclosure Statement (IDS) was filed on August 3, 2006. The Applicants have not yet received an initialed PTO-1449 for this IDS. The Applicants respectfully request that the Office send, to the Applicants, an initialed PTO-1449 for this IDS.

CLAIM REJECTIONS—35 U.S.C. § 102

Claims 1-5, 7-11, 14-37 and 39-49 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Published Patent Application No. 2003/0033400 A1 (“Pawar”). This rejection is respectfully traversed.

Claim 1 recites, among other features, “a server configured to (a) register each of the plurality of components” and “(b) perform dynamic probing operations **on each of the plurality of components** to identify configuration changes made to the configuration of each of the plurality of components.” The Office Action alleges that the “register” operation recited in Claim 1 is also disclosed in Pawar, paragraph [0017]—specifically, in the sentence which reads, “A list of slaves SL is stored in a configuration file on the master CG.” From this allegation, the Applicants deduce that the Office Action means to allege that Pawar’s “master CG” is analogous to the “server” of Claim 1, and that Pawar’s “slaves SL” are analogous to the “plurality of components” of Claim 1.

Thus, unless Pawar's master CG also performs dynamic probing operations on each of Pawar's slaves SL to identify configuration changes made to the configuration of each of Pawar's slaves SL, Pawar cannot anticipate Claim 1 under 35 U.S.C. § 102(e).

According to Pawar, master CG pushes scheduling information to "slaves SL" in step 2, discussed in Pawar's paragraph [0017]. This is the extent of the interaction between master CG and slaves SL. Master CG does not perform dynamic probing operations relative to each of slaves SL to identify configuration changes made to the configuration of each of slaves SL.

The Office Action notes that Pawar's intelligent agents continuously run on every host in a network, as discussed in Pawar's paragraph [0007]. The Office Action apparently takes the position that this statement means that intelligent agents also run on master CG and each of slaves SL. The Applicants disagree for the following reasons.

In paragraph [0020], Pawar discloses a technique by which an intelligent agent avoids unnecessarily downloading information from a slave SL. If the intelligent agent actually ran on slave SL, then there would be no need for the intelligent agent to download information from slave SL. Therefore, Pawar's intelligent agent clearly runs on a host that is separate from slave SL, just as is shown in Pawar's FIG. 2.

As is discussed above, Claim 1 recites, among other features, a server that is configured to "perform dynamic probing operations **on each of the plurality of components** to identify configuration changes made to the configuration of each of the plurality of components." The Office Action alleges that intelligent agents evaluate rules, and that this is equivalent to the "dynamic probing operations" recited in Claim 1. However, despite Pawar's indication that intelligent agents run on every host, Pawar does not specifically state that any intelligent agent executes on master CG, or that master CG is included in the definition of a "host." Thus, even if Pawar's intelligent agent evaluates rules, this does not mean that Pawar's master CG (the entity to which the Office Action analogizes the "server" of Claim 1) also evaluates rules.

However, **even if** an intelligent agent runs on Pawar's master CG, and even if Pawar's master CG "evaluates rules" (the Applicants again assert that Pawar's master CG does not—Pawar's master CG merely pushes scheduling information to slaves SL without evaluating any rules in that information), Pawar's master CG still does not "perform dynamic probing operations **on each of the plurality of components**" (which the Office Action analogizes to Pawar's slaves SL). As is discussed in Pawar's paragraph [0019], an intelligent agent polls a slave SL to obtain the scheduling information that master CG pushed to slave SL. The intelligent agent downloads the scheduling information and executable modules from slave SL, evaluates rules based on the scheduling information, and executes downloaded modules based on evaluation results. The agent only evaluates rules and executes modules **relative to the host on which the agent executes**. Thus, even if an intelligent agent ran on Pawar's master CG (and the Applicants assert that no intelligent agent actually does), that particular intelligent agent would, at most, evaluate rules and execute modules relative to **master CG only**; an intelligent agent running on Pawar's master CG would **not** evaluate rules and execute modules relative to any of **slaves SL**, which the Office Action analogizes to the "plurality of components" recited in Claim 1.

Thus, even if intelligent agents run on master CG and each of slaves SL (which they don't, because if they did, then the agents wouldn't need to poll slaves SL or download information from slaves SL), Pawar doesn't disclose that master CG (the alleged "server" of Claim 1) performs dynamic probing operations **on each of slaves SL** (the alleged "plurality of components" of Claim 1). Consequently, Pawar doesn't disclose, teach, or suggest "a server configured to (a) register each of the plurality of components" and "(b) perform dynamic probing operations **on each of the plurality of components** to identify configuration changes made to the configuration of each of the plurality of components" as recited in Claim 1.

Although Pawar discloses that an intelligent agents polls a slave SL, such an intelligent agent **cannot** be the "server" of Claim 1, because such an intelligent agent does not "register

each of the plurality of components” as the server of Claim 1 does. Even assuming, for sake of argument, that an intelligent agent runs on Pawar’s master CG, which stores a list of slaves SL, that particular intelligent agent would not also poll any of slaves SL; as is discussed above, Pawar’s master CG merely pushes information to slaves SL. Thereafter, neither Pawar’s master CG, nor any intelligent agent hypothetically executing thereon, has any need or reason to poll any of slaves SL. Such polling (which the Office Action might consider analogous to a “dynamic probing operation”) is only performed by intelligent agents that run on hosts that seek to obtain, from slaves SL, scheduling information and modules that the master CG has already pushed to slaves SL. Because the master CG pushes this information to slaves SL in the first place, it would be ridiculous to assert that master CG also polls slaves SL to locate and download this information.

Therefore, Claim 1 is patentable over Pawar under 35 U.S.C. § 102(e).

Claim 14 requires that the “management console” must comprise the “validator for validating.” The Office Action alleges that the “intelligent agents” perform the “validating.” However, Pawar’s “intelligent agents” do not communicate with client modules that are associated with the components, as the “management console” of Claim 14 must. There is no “management console” in Pawar that both (a) comprises a validator and (b) communicates with client modules that are associated with components.

Therefore, Claim 14 is patentable over Pawar under 35 U.S.C. § 102(e).

Claim 26 requires the step of “retrieving the configuration of **each of a plurality of components** by communicating with a client modules residing **at each component of the plurality of components.**” Pawar does not disclose any entity that retrieves configurations from **each of a plurality of components**. Pawar’s intelligent agents do not do so. Apparently, none of Pawar’s intelligent agents interact with any more than **one** slave SL (the alleged

“components”). Therefore, none of Pawar’s intelligent agents retrieve configurations from **each of a plurality** of components.

Therefore, Claim 26 is patentable over Pawar under 35 U.S.C. § 102(e).

The Applicant respectfully submits that all of the dependent claims are patentable over Pawar under 35 U.S.C. § 102(e) for at least the reasons discussed above in connection with the independent claims from which those dependent claim depend.

CLAIM REJECTIONS—35 U.S.C. § 103

Claims 1-5, 7-11, 14-37, 39, and 41-49 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,754,699 (“Swildens”) in view of U.S. Patent No. 7,076,547 (“Black”). This rejection is respectfully traversed.

Claim 1 recites, among other features, “a server configured to (a) register each of the plurality of components, (b) perform dynamic probing operations on each of the plurality of components to identify configuration changes made to the configuration of each of the plurality of components, and (c) **validate identified configuration changes against the configuration policy to determine whether the configuration changes conform to the configuration policy.**”

Swildens discloses, in col. 25, lines 54-60, that NetProbes software at one point of presence (POP) performs content verification to ensure that machines at other POPs are operating correctly. However, it does not logically follow that the NetProbes software validates any configuration changes at any of these other POPs. Configuration changes are not necessarily a part of or an indication of whether or not a machine is operating correctly; a machine might or might not be operating correctly regardless of whether any configuration changes have been made at that machine. Ensuring that a machine is operating correctly has no relation to validating configuration changes at that machine. The NetProbes software can determine

whether or not a machine is operating correctly even if no configuration changes have been made at that machine. Thus, Swildens, alone, does not disclose the system of Claim 1.

Black discusses, in col. 6, probes that monitor data streams (“flow instances”). These probes store configuration information that defines the flow instances that the probes are to monitor. The configuration information also defines the operations that are to be performed on collected data. When the probes detect a flow instance that they are supposed to monitor, the probes collect data regarding that flow and send the data to an analyzer. In col. 3, Black says that such an analyzer may route this information to other analyzers, if some policy indicates that such an analyzer should do so. But Black does **not** say anything about **configuration changes** or **validating configuration changes**. Neither the probes nor the analyzers validate any configuration changes against any configuration policy. Thus, Black, alone, does not disclose the system of Claim 1.

Even if Swildens and Black could be combined somehow, the combination still would not disclose, teach, or suggest a server that is configured to validate identified configuration changes against a configuration policy to determine whether the configuration changes conform to the configuration policy. As is discussed above, neither Swildens nor Black validates configuration changes against a configuration policy. Since neither Swildens nor Black does this, even a combination of Swildens and Black would not do this.

The Office Action says that it would have been obvious to combine Swildens and Black to incorporate configuration information or policies, as allegedly disclosed in Black, into Swildens’s apparatus in order to “utilize the dynamic probe.” However, Swildens already receives dynamic configuration information (resource availability) from a probe (Swildens, col. 5, lines 57-59), so Swildens has no need of Black in order to accomplish this. One of ordinary skill in the art would not have been motivated to combine Swildens and Black for the reasons stated in the Office Action (or for any other reason).

Swildens is concerned with load balancing and caching client requests among servers. Black is concerned with analyzing data flows. Swildens has no need of Black's data flow analysis. Swildens's load balancing techniques have nothing to do with data flow characteristics. Except for the fact that they both involve networks, Swildens and Black are entirely unrelated. One of ordinary skill in the art would not have been motivated to combine Swildens and Black merely because both involve networks. One of ordinary skill in the art would not have been motivated to combine Swildens and Black at all.

The remaining claims rejected under 35 U.S.C. § 103(a) also disclose features that neither Swildens and Black disclose, teach, or suggest, regardless of whether Swildens and Black are considered individually or in combination. However, because one of ordinary skill in the art would not have been motivated to combine Swildens and Black anyway, a detailed discussion of these features is not presented at this time. The Applicants respectfully submit that, at least because one of ordinary skill in the art would not have even been motivated to combine the teachings of Swildens and Black (at least, not for the reasons presented in the Office Action), all of the pending claims are patentable over Swildens and Black under 35 U.S.C. § 103(a).

Additionally, Black has a priority date of June 21, 2001. The filing date of the present application is November 30, 2001—only a little over 5 months after Black's priority date. It is not uncommon for more than this amount of time to pass in between an inventor's conception of an invention and the filing of a patent application that claims that invention. Indeed, the Applicants can swear behind Black's priority date, and will do so if required. The Applicants are in possession of evidence that shows that the inventors conceived of their invention prior to June 21, 2001.

The Applicants also note that the Office Action did **not** reject Claim 40 under 35 U.S.C. § 103(a). Therefore, the Applicants assume that the Office has determined that Claim 40 is patentable over Swildens and Black under 35 U.S.C. § 103(a).

CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

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